IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 13.09.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

C.M.A. No.1947 of 2006
And
M.P. No.1 of 2006

United India Insurance
Company Limited, Branch Office,
Pollachi-642 002. … Appellant (3rd Respondent)

Vs.

1. Ponnusamy

2. Saraswathy

3. M.Ravikumar

4. Dr.M.Kanakavalli … Respondents (Petitioners and Respondent 1 and 2)

Appeal against the Award and Decree dated 21.11.2005 made in MCOP No.1610 of 1999 on the file of the Motor Accidents Claims Tribunal and Additional District Court (Fast Track Court-V), Coimbatore at Tiruppur.

For Appellant : Mr.S.Arunkumar
For R-1 & R-2 : Mr.S.S.Swaminathan

J U D G M E N T

United India Insurance Company Limited is the appellant herein.

2. In respect of the death of one Selvaraj in a Motor Vehicle Accident that took place on 08.07.1999, respondents-1 and 2 herein/parents of the deceased prayed for a compensation of Rs.5,00,000/-. The Tribunal, on appreciation of the oral and documentary evidence, passed an award for a sum of Rs.2,79,000/- with interest at 9% per annum from the date of the

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petition till the date of deposit. Questioning the same, the Insurance Company has filed this Appeal.

3. Even at the time of admission, contesting respondents-1 and 2 are represented by counsel.

Heard learned counsel for the appellant as well as respondents-1 and 2.

4. Learned counsel appearing for the appellant/Insurance Company fairly stated that they are aggrieved only with regard to the quantum of compensation arrived at by the Tribunal, hence, it is unnecessary for this Court to go into the finding relating to negligence and liability.

5. The claimants are the parents of the deceased. Post-mortem certificate has been marked as Ex.P-2, which shows the age of the deceased as 35 years. Ex.P-3 is the Death Certificate. Ex.P-4 is the Legal Heirship Certificate which shows that the claimants are the legal heirs of deceased Selvaraj. First claimant/father of the deceased is aged about 73 and the second claimant/mother is about 68. According to the evidence of PW-1, mother of the deceased, her son Selvaraj was an employee in a private banian company at Tiruppur, getting a salary of Rs.5,000/- per month. Except her oral evidence, no documentary evidence was placed in support of her version relating to the income of the deceased. The Tribunal, taking note of various factors, viz., age of the deceased, he was hale and healthy and availability of more employment opportunities at Tiruppur; arrived at a conclusion that it would be possible for the deceased to have earned Rs.3,000/- per month. After deduction to the extent of 1/3rd towards his personal expenses, the annual contribution was fixed at Rs.24,000/-. By applying multiplier 11, a sum of Rs.2,64,000/- was arrived at as pecuniary loss to the claimants. After adding Rs.5,000/- towards funeral expenses and Rs.5,000/- each towards loss of love and affection, ultimately, the Tribunal passed an Award for Rs.2,79,000/-.

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6. Learned counsel for the appellant submitted that, taking note of the age of the parents of the deceased, ie., 73 and 68 years, the Tribunal is not justified in applying multiplier 11 for determining the pecuniary loss. Before considering the said aspect, it is relevant to point out that though the claimants have not produced documentary evidence to prove their claim regarding the income of the deceased, as rightly observed by the Tribunal, the deceased, who was aged about 35 years at the time of the accident and a resident of Tiruppur, where there is every possibility of getting good employment, would have definitely earned at least Rs.3,000/- per month. Likewise, the Tribunal is also justified in deducting 1/3rd of the income towards his personal expenses. If we consider the age of the deceased, ie., 35 years, it is true that the multiplier adopted by the Tribunal is on the higher side, however, as seen from the evidence of PW-2, both the aged parents are the sole dependants of the deceased and after his death, they are now totally helpless. They also expressed that, in the absence of the deceased, their life has become meaningless. Considering all these aspects, particularly taking note of the age of the mother, I am of the view that ends of justice would be met by applying multiplier 8 to fix the pecuniary loss. Accordingly, I fix the pecuniary loss as 24,000 X 8 = Rs.1,92,000/-. Taking note of the fact that the parents have lost their only son, they are entitled to a sum of Rs.10,000/- each towards loss of love and affection, Rs.5,000/- towards funeral expenses; and Rs.3,000/- towards transport charges. Accordingly, Award is passed for Rs.2,20,000/- (Rupees two lakhs twenty thousand only) with interest at the rate of 9% per annum for the said amount from the date of petition till the date of deposit. Out of the said amount, first claimant Ponnusamy is entitled to Rs.1,00,000/- with corresponding interest and second claimant Saraswathi is entitled to Rs.1,20,000/- with corresponding interest and entire costs. The Insurance Company is directed to deposit the said amount within a period of two months from to-day. On such deposit, the claimants are permitted to withdraw the entire amount as apportioned. The award of the Tribunal is modified to the extent mentioned above.

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7. Civil Miscellaneous Appeal is allowed in part. No costs. Connected Miscellaneous Petition is closed.
JI.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

The Motor Accidents Claims Tribunal
(Additional District and Sessions Judge)
FTC NO. V Coimbatore @ Tiruppur

+ one cc to Mr. N. Rosinaidu, Advocate sr no. 42601
+ one cc to Mr. S.S. Swaminathan, Advocate sr no. 42719

bv(co)
nm(25.10.2006)

CMA No.1947 of 2006.

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